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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,959	12/14/2000	Brian Feinberg	19880004200	1713

26291 7590 08/10/2005

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EXAMINER

SHANNON, MICHAEL R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/738,959

Applicant(s)

FEINBERG ET AL.

Examiner

Michael R. Shannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 15 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 9-14, filed February 3, 2005, with respect to the rejections of claims 1-5 and 7-20 under 35 USC 102(e) as being anticipated by Richardson and claim 6 under 35 USC 103(a) as being unpatentable over Richardson in view of Remillard have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Blumenau (USP 6,108,637) and Sitnik (US 2002/0010935), both cited by the Examiner.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 7-17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Blumenau (USP 6,108,637), cited by Examiner.

Regarding claim 1, the claimed "method for monitoring operation of an information distribution system comprising provider equipment and subscriber equipment" is met as follows:

- The claimed step of “receiving, at a control unit, a directive to monitor a particular channel of a plurality of channels transmitted from a content provider to said subscriber equipment, and at a particular terminal associated with said provider equipment” is met by the monitoring instructions, which are delivered to the display site 302 (the subscriber equipment) from the content provider site 301 (the provider equipment) and instruct the display site 302 to monitor the use of the delivered content [Fig. 3B and col. 10, lines 55-65]. The monitoring of a channel is taken into account when one considers that data channels are opened and used for delivering content to the display site. The monitoring instructions would therefore instruct the display site as to what channel to monitor. For example, the audiovisual media such as television and radio is discussed as a related art that may need monitoring [col. 1, lines 40-43].
- The claimed step of “sending a command indicative of the particular channel and terminal to be monitored”, is, again, met by the monitoring instructions, which would instruct the display site (terminal) as to what channel to monitor [col. 10, lines 55-65]. For example, the audiovisual media such as television and radio is discussed as a related art that may need monitoring [col. 1, lines 40-43].
- The claimed step of “receiving information representative of content being transmitted on the particular channel from the particular terminal” is met by the transmission of the monitoring information from the content display site

302 to the content provider site 301 [col. 11, lines 2-10], which was information that was monitored and collected according to the monitoring instructions.

- The claimed steps of “capturing the received content” and “reporting the captured content” are met by the review of the monitoring information produced by the monitoring instructions after the information is received at the content provider site 301 (or other site as discussed in column 20, lines 1-4), which enable conclusions regarding the observer’s observation of the content to be deduced [col. 11, lines 7-10].

Regarding claim 2, the claimed “method of claim 1, wherein the reported contents are used to verify delivery of contents from the information distribution system” is met by the observations of the received monitoring information, which indeed does provide verification of the content delivery at the display site [col. 11, lines 7-10].

Regarding claim 3, the claimed “method of claim 1, wherein the reported contents are used to verify operation of a user interface at the particular terminal” is met by the monitoring method that takes into account the monitoring of a “user interface mechanism” [col. 19, lines 50-52].

Regarding claim 7, the claimed “method of claim 1, wherein the directive is received as part of a regular monitoring schedule” is met by the fact that the “monitoring instructions are transferred to the content display site 302 together with the content” [col. 11, lines 57-59]. It can be realized that a regular schedule of monitoring is accomplished upon regular transmissions of content (and therefore, concurrent

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monitoring instructions) to the content display site 302. A subscriber using the system would not be away of the "regular monitoring schedule", but as long as he/she was using the display site for retrieval of content, the monitoring instructions would be regularly downloaded and acted upon.

Regarding claim 8, the claimed "method of claim 1, wherein the command is sent to a remote control unit" is met by the ability to send the monitoring instructions to any of the plurality of remotely attached control units (or display sites). The monitoring instructions take the form of a computer program that included instructions for monitoring and for displaying content [col. 11, lines 57-61]. The display site or "control unit" can be any type of display device, including a conventional computer display monitor, a television, or one or more audio speakers [col. 10, lines 36-39].

Regarding claim 9, the claimed "method of claim 1, wherein the particular terminal is selected from among a plurality of terminals", is, again, met by the ability to send the monitoring instructions to any of the plurality of remotely attached control units (or display sites), which can be any type of display device, including a conventional computer display monitor, a television, or one or more audio speakers [col. 10, lines 36-39]. The "Content display site" refers to a device that is part of a network and that can receive and display content from another device that is part of the network, the network including any collection of interconnected computer systems (such as those mentioned above) [col. 10, lines 15-39].

Regarding system claim 10, see the above rejection for similar method claim 1.

Regarding claim 11, the claimed “monitoring system of claim 10, further comprising a monitor and control unit operatively coupled to the control unit and configured to provide the directive to monitor the particular channel at the selected terminal” is met by the review of the monitoring information produced by the monitoring instructions after the information is received at the content provider site 301 (or other site operatively coupled to the display site and content provider site, as discussed in column 20, lines 1-4). Furthermore, as is illustrated in Figures 5A-5C, the content and monitoring instructions can be transferred to the content display site 302 from the application manager site 501 in response to a request received from the content provider site 301 upon receipt of the request from the content display site 302 [col. 22, lines 11-16].

Regarding claim 12, the claimed “monitoring system of claim 11, wherein the monitor and control unit is further configured to provide a set of directives to test user interaction at the selected terminal” is met by the application manager site 501 (previously discussed), which can send monitoring instructions for monitoring use of a “user interface mechanism”, and therefore, user interaction with the user interface mechanism [col. 19, lines 50-52]. For example, column 17, line 59 begins a discussion of how a user interface mechanism is used to monitor the audio content of received content.

Regarding claim 13, the claimed “monitoring system of claim 11, wherein the monitor and control unit is further configured to provide a set of directives to verify proper delivery of contents on a plurality of channels to a plurality of terminals” is met by

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the application manager site 501 or content provider site 301 providing monitoring instructions to the display site 302. The monitoring instructions meet the claimed “set of directives” and the observations of the received monitoring information provide verification of the content delivery at the display site [col. 11, lines 7-10]. There are multiple display sites on the network, as discussed in column 10, lines 15-39.

Regarding claim 14, the claimed “monitoring system of claim 10, wherein the command directs the selected terminal to tune to the particular channel” is met by the return of the monitoring information to the content provider site 301. The content display site 302 can communicate to a communication port that is different than the port from which the content and the monitoring instructions were transmitted to it [col. 20, lines 23-26]. Also note that a proxy server can be used to mediate communication between the client computers and other sites on the network (such as the content provider site). The proxy server may not allow communication over a channel specially designated for transmitting monitoring data [col. 20, lines 50-56], this inherently teaches a channel that is used for transmitting monitoring information that must be tuned to in order to transmit the monitoring information to the provider 301, therefore meeting the claim.

Regarding claim 15, the claimed “monitoring system of claim 10, further comprising a remote control unit configured to receive the command from the control system and direct the selected terminal to tune to the particular channel” is met by the review of the monitoring information produced by the monitoring instructions after the information is received at the content provider site 301 (or other site operatively coupled



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to the display site and content provider site, as discussed in column 20, lines 1-4).

Furthermore, as is illustrated in Figures 5A-5C, the content and monitoring instructions can be transferred to the content display site 302 from the application manager site 501 in response to a request received from the content provider site 301 upon receipt of the request from the content display site 302 [col. 22, lines 11-16]. Also note that a proxy server can be used to mediate communication between the client computers and other sites on the network (such as the content provider site). The proxy server may not allow communication over a channel specially designated for transmitting monitoring data [col. 20, lines 50-56], this inherently teaches a channel that is used for transmitting monitoring information that must be tuned to in order to transmit the monitoring information to the provider 301.

Regarding claim 16, the claimed "monitoring system of claim 10 and including a plurality of terminals of a plurality of terminal models" is met by the ability to send the monitoring instructions to any of the plurality of remotely attached control units (or display sites), which can be any type of display device (terminal model), including a conventional computer display monitor, a television, or one or more audio speakers [col. 10, lines 36-39]. The "Content display site" refers to a device that is part of a network and that can receive and display content from another device that is part of the network, the network including any collection of interconnected computer systems (such as those models mentioned above) [col. 10, lines 15-39].

Regarding claim 17, the claimed "monitoring system of claim 10, wherein the control system includes a media capture unit configured to capture the contents

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received from the selected terminal” is met by the review of the monitoring information produced by the monitoring instructions after the information is **received** at the content provider site 301 (or other site, such as application manager site 501, as discussed in column 20, lines 1-4), which enable conclusions regarding the observer’s observation of the content to be deduced [col. 11, lines 7-10]. The reception of the monitoring information inherently teaches some sort of “capture” unit for capturing the content.

Regarding system claim 20, see the above rejection to method claim 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau (USP 6,108,637), in view of Sitnik (US 2002/0010935), both cited by Examiner.

Regarding claim 4, the Blumenau reference teaches all of that which is discussed above with regards to claim 1. The Blumenau reference does not, however, teach that the “received contents are captured as one or more video frames”, as claimed. The Blumenau reference does teach sending monitoring information back to the provider site 302, however, does not expressly say that the monitoring information can be “one or more video frames”. Sitnik teaches an in-house (or possibly, out of house) TV-to-TV

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Channel Peeking system that allows a user to query a TV and obtain a content sample that may include single or multiple frames of currently viewed content [paragraph 0016]. The Blumenau reference points out that obtaining other types of monitoring information is contemplated by his invention [col. 13, lines 29-30] and that the network of his invention can include a private computer network such as an intranet that can transfer video and/or audio content (HAVi network) [col. 11, lines 16-22]. The network of Sitnik fits this description and could be used as a way of implementing video monitoring in the Blumenau reference. As the Sitnik reference states, "TV networks, advertisers, etc. may gain additional valuable data from the apparatus operating in accordance with the present invention" [paragraph 0024]. In other words, TV network would benefit from being able to query TV's on the network to get a frame or multiple frames of currently viewed content. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the system of Blumenau to receive one or more video frames as content, in order to "gain additional valuable data" about the operation of the apparatus through querying and monitoring.

Regarding claim 5, the Blumenau reference teaches all of that which is discussed above with regards to claim 1. The Blumenau reference does not, however, teach that the "received contents are captured as a video sequence", as claimed. The Blumenau reference does teach sending monitoring information back to the provider site 302, however, does not expressly say that the monitoring information can be "a video sequence". Sitnik teaches an in-house (or possibly, out of house) TV-to-TV Channel Peeking system that allows a user to query a TV and obtain a content sample that may

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include single or multiple frames of currently viewed content (multiple consecutive frames representing a video sequence) [paragraph 0016]. The Blumenau reference points out that obtaining other types of monitoring information is contemplated by his invention [col. 13, lines 29-30] and that the network of his invention can include a private computer network such as an intranet that can transfer video and/or audio content (HAVi network) [col. 11, lines 16-22]. The network of Sitnik fits this description and could be used as a way of implementing video monitoring in the Blumenau reference. Also, the Sitnik reference states, "TV networks, advertisers, etc. may gain additional valuable data from the apparatus operating in accordance with the present invention" [paragraph 0024]. In other words, TV network would benefit from being able to query TV's on the network to get a video sequence of currently viewed content. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the system of Blumenau to receive a video sequence as content, in order to "gain additional valuable data" about the operation of the apparatus through querying and monitoring.

Regarding claim 6, see the above rejection to claim 4, also note that the Examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to transmit and store images (or frames) in bitmap format. As such, the definition of bitmap (or bit image), according to the Microsoft Computer Dictionary 5<sup>th</sup> Edition indicates that the screen itself represents a single bit image. Therefore, the Examiner submits that it would have been clearly obvious to one of ordinary skill in the art to substitute and transmit the "bitmap" instead of the "one or more frames" as monitoring information, in

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order to "gain additional valuable data" about the operation of the apparatus through querying and monitoring.

Regarding claim 18, see the above rejection to claim 4.

Regarding claim 19, see the above rejection to claim 5.

### ***Claim Objections***

6. Claims 15 and 16 are objected to because of the following informalities: Both claims cite the limitation "the control system", which does not have proper antecedent basis in the parent claim. However, the Examiner assumes that the Applicant meant to type "the control unit". Appropriate correction is required.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Shannon who can be reached at (571) 272-7356 or Michael.Shannon@uspto.gov. The examiner can normally be reached by phone Monday through Friday 8:00 AM – 5:00PM, with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(571) 272-2600**.

Michael R Shannon  
Examiner  
Art Unit 2614

Michael R Shannon  
July 26, 2005

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**